

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ALDO VERA, JR., as Personal Representative
of the Estate of Aldo Vera, Sr.,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant.

Case No. 12-CV-01596
(AKH)

ALDO VERA, JR., as Personal Representative
of the Estate of Aldo Vera, Sr.; and

JEANETTE FULLER HAUSLER, and WILLIAM FULLER as
court-appointed co-representatives of the ESTATE OF ROBERT
OTIS FULLER, deceased, on behalf of all beneficiaries of the
Estate and the ESTATE OF ROBERT OTIS FULLER; and

ALFREDO VILLOLDO, individually, and
GUSTAVO E. VILLOLDO, individually and as Administrator,
Executor, and Personal Representative of the ESTATE OF
GUSTAVO VILLOLDO ARGILAGOS,

Petitioners,

v.

BANCO BILBAO VIZCAYA ARGENTARIA (S.A.); BANK OF
AMERICA N.A.; BANK OF NEW YORK MELLON;
BARCLAY'S BANK PLC; CITIBANK N.A.; CREDIT SUISSE
AG, NEW YORK BRANCH; DEUTSCHE BANK TRUST
COMPANY AMERICAS; HSBC BANK (HSBC BANK USA,
N.A.); INTESA SANPAOLO S.P.A.; JP MORGAN CHASE
BANK, N.A.; RBS CITIZENS, N.A.; ROYAL BANK OF
CANADA; SOCIETE GENERALE; UBS AG; WELLS FARGO
BANK, NA; BROWN BROTHERS HARRIMAN & CO.;
MERCANTIL COMMERCEBANK, N.A.; STANDARD
CHARTERED BANK; AND BANCO SANTANDER, S.A.,

Respondents/Garnishees.

**DECLARATION OF
ROBERT A. SWIFT IN
SUPPORT OF
MOTION FOR
SUMMARY
JUDGMENT RE
PHASE I
INTERPLEADER
ACCOUNT AT HSBC**

ROBERT A. SWIFT, declares under penalty of perjury as follows:

1. I am a senior member of the law firm of Kohn, Swift & Graf, P.C. which represents Petitioner Aldo Vera, Jr., and am admitted *pro hac vice* in this litigation. I am familiar with the proceedings in this litigation. I make this Declaration based on my personal knowledge of the facts set forth herein.

2. On March 12, 2014, HSBC Bank USA, N.A. ("HSBC") filed an interpleader action (ECF #451) for court determination of entitlement to a blocked electronic funds transfer ("EFT") in which HSBC identified Banco Internacional de Comercio, S.A. ("BICSA") as the originator and beneficiary. ING Bank France, Succursale de ING Bank N.V. was the originating bank. Banco Bilbao Vizcaya Argentaria, S.A. ("BBVA") was the beneficiary bank.


3. The \$3 million EFT was transmitted on or about May 21, 2002 through HSBC. The EFT was blocked by HSBC pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)) and the Cuban Assets Control Regulations, 31 C.F.R. § 515.201 et seq. (the CACRs) as issued by the by the Office of Foreign Assets Control ("OFAC") and codified by the Cuban Liberty and Democratic Solidarity Act of 1996, § 102(h), Pub. L. No. 104-114, 110 Stat. 792 (codified at 22 U.S.C. § 6032(h)).

4. Pursuant to this Court's Order with Respect to Giving Notice of Turnover Proceeding, as amended, HSBC made service of the Interpleader Complaint on BICSA, BBVA and ING. The deadline for any interested party to object or make a claim to the Interpleader was June 19, 2014. BICSA and ING failed to answer or otherwise plead by that deadline, and did not do so during the following 12 months.

5. BBVA filed an objection to the subject matter jurisdiction of this Court. This Court ruled multiple times that it possessed both subject matter and personal jurisdiction to adjudicate the Turnover Petition. *See* ECF #'s 666, 676 and 739.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Philadelphia, Pennsylvania
on June 22, 2014.


Robert A. Swift